IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc. Application No. 740 of 2007

Jaipal Singh. …….Applicant.

Versus

State of Uttarakhand
and another. ….....….Respondents.

Present
Mr. Sandeep Tandon, Advocate for the applicant.
Mrs. Mamta Bisht, AGA for the State.

Hon'ble Servesh Kumar Gupta, J.

Having heard learned counsel for parties, it appears that some immovable property (a piece of land) was purchased by wife of applicant Jaipal Singh on 27.06.1990. Somehow, one Umesh Kumar Ahluwalia, resident of same locality, also claimed his ownership upon that land, so a discord started between the parties. Jaipal Singh moved an application to District Magistrate on 18.08.2007 narrating the entire incident as to how his wife became owner of the said land and also nefarious conduct of some unscrupulous elements at the instance of Mr. Ahluwalia. Police instead of taking any action against Mr. Ahluwalia submitted a report dated 17.09.2007 recommending for challan of applicant Jaipal under Section 107, 116 Cr.P.C., albeit it was accepted by the police that sale deed existed in the name of wife of Jaipal Singh. On the basis of this report, a notice was issued to Jaipal on 22.09.2007 by City Magistrate asking him to furnish bail bonds. The said notice was challenged by way of filing revision no. 182 of 2007 in the court of Sessions but the same was dismissed on 03.10.2007 without assigning any cogent reason.

Learned Sessions Judge dismissed the said revision by simply writing that revision is not maintainable in view of

law laid down in the case of Vindyavasni Vs State reported in 1976 CRLJ page 1660. It was a quite unspeaking order. Feeling aggrieved, Jaipal Singh has come up before this Court by way of filing this petition.

Having heard learned counsel for the parties as well as going through the contents of counter affidavit, it is clear that no substantial ground has been disclosed in the order passed by City Magistrate with regard to apprehension of breach of peace from the activities of Jaipal. Order passed by the Sessions Judge is also not speaking and does not narrate any ground regarding facts of the dispute between the parties.

In view of what has been stated above, this petition is allowed. Challan dated 17.09.2007, order dated 22.09.2007 passed by City Magistrate, Dehradun as well as order dated 03.10.2007 passed by Sessions Judge are hereby quashed with all consequences.

(Servesh Kumar Gupta, J.)
27.11.2012

SKS